

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

TREVON GAINES,

Plaintiff,

v.

Case No. 23-CV-390-JFH

MRS. SPITNER, et al,

Defendants.

OPINION AND ORDER

On November 15, 2023, Plaintiff Trevon Gaines (“Plaintiff”), a pro se state prisoner who is incarcerated at Great Plains Correctional Center (“GPCC”) in Hinton, Oklahoma, filed this civil rights complaint pursuant to 28 U.S.C. § 1983. Dkt. No. 1. The defendants are Mrs. Spitner, Mrs. Birdshead, Mr. Hamilton, Mrs. Smith, and Mrs. Mattson, all of whom are GPCC officials. Plaintiff alleges the defendants are attempting to keep him from discharging his sentence on the proper date.

A civil action may be brought in--

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; [or]

(2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred,

28 U.S.C. § 1391(b)(1)-(2).

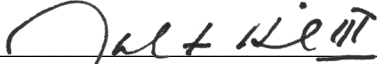
After careful review, the Court finds proper venue does not lie in the Eastern District of Oklahoma, and the case should be transferred to the Western District of Oklahoma. Plaintiff is incarcerated in Caddo County in the Western District of Oklahoma, and the complaint asserts the defendants also are located within the territorial jurisdiction of the Western District. Further, the

events alleged in the complaint occurred in the Western District. Pursuant to 28 U.S.C. § 1391(b)(1-2), the proper venue for this civil rights action is the Western District of Oklahoma.

The Court further finds that because Plaintiff is challenging the execution of his sentence, he should have presented his claim in a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 in the Western District of Oklahoma. *See Monte v. McKenna*, 208 F.3d 862, 865 (10th Cir. 2000). A § 2241 petition attacks the execution of a sentence and must be filed in the district where the petitioner is confined. *Hough v. Booker*, 210 F.3d 1147, 1149 (10th Cir. 2000); *Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir. 1996).

IT IS THEREFORE ORDERED that this action is transferred in the interest of justice to the United States District Court for the Western District of Oklahoma. *See* 28 U.S.C. § 1406(a).

Dated this 20th day of November 2023.



JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE